



Entered on Docket
January 22, 2008

A handwritten signature in dark ink, appearing to read "Linda B. Riegler".

Hon. Linda B. Riegler
United States Bankruptcy Judge

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Attorneys for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE COMPANY,
USA CAPITAL REALTY ADVISORS, LLC,
USA CAPITAL DIVERSIFIED TRUST DEED FUND,
LLC,
USA CAPITAL FIRST TRUST DEED FUND, LLC,
USA SECURITIES, LLC,

Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR
Case No. BK-S-06-10729-LBR

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

Hearing Date: December 20, 2007
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

**ORDER SUSTAINING OBJECTION TO CLAIM TO SECURED STATUS BY
WYNN AND LORRAINE GUNDERSON**

Pending before the Court is the Objection of the USACM Liquidating Trust (the “USACM Trust”) to Wynn & Lorraine J. Gunderson’s Claim Asserting Secured Status (the “Objection”) [DE 4262] and the USACM Trust’s Motion for Summary Judgment Regarding Responses to the USACM Trust’s First Through Thirty-Third Omnibus Objection to Claims Asserting Secured Status as it applies to the Objection (the “Motion”) [DE 4291]. The Gundersons are Direct Lenders, who filed Proof of Claim No. 10725-02447-2 (the “Claim”). The Gundersons assert secured status based upon USACM’s allegedly fraudulent handling of the Gunderson’s investment. The Objection and the Motion seek to reclassify the Gunderson’s claim as a general unsecured claim, arguing that the Gunderson’s fraud allegations, even if true, are insufficient to create a security interest. The Gundersons filed a response to the Objection and the Motion [DE 3514]. The Court heard oral argument on the Objection and the Motion on December 20, 2007. Good cause appearing,

IT IS ORDERED:

- Sustaining the Objection as it applies to Proof of Claim No. 10725-02447-2;
- Granting the Motion as it applies to Proof of Claim No. 10725-02447-2; and
- Reclassifying Proof of Claim No. 10725-02447-2 as a general unsecured claim.

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PREPARED AND SUBMITTED:

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)

Susan M. Freeman

Rob Charles

Attorneys for USACM Liquidating Trust

1 APPROVED:

2 OFFICE OF THE U.S. TRUSTEE

3 

4 August B. Landis, Esq.

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8  for:

9 Wynn Gunderson

10  for:

11 Lorraine Gunderson

CERTIFICATION OF COUNSEL PURSUANT TO LOCAL RULE 9021

In accordance with Local Rule 9021, the undersigned certifies:

- ☐ The Court waived the requirements of approval under LR 9021.
- ☐ No parties appeared or filed written objections, and there is no trustee appointed in the case.
- ☐ No opposition was filed to the motion and no other party or counsel appeared at the hearing.
- ☒ I have delivered a copy of this proposed order to all attorneys and unrepresented parties who have appeared at the hearing, and any trustee appointed in the case, and each has approved or disapproved the order, or failed to respond, as indicated below:

August Landis (Approved)
Office of the U.S. Trustee

Wynn Gunderson (Approved)
Claimant

Lorraine Gunderson (Approved)
Claimant

LEWIS AND ROCA LLP

By: /s/ RC (#0006593)
Susan M. Freeman
Rob Charles
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